

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LENIER AYERS,

Plaintiff,

V.

LESLIE SZIEBERT *et al.*,

## Defendants.

Case No. C07-5520RJB

**ORDER GRANTING  
MOTION FOR EXTENSION OF  
TIME TO RESPOND**

This matter comes before the court on the Report and Recommendation issued by Magistrate Judge Karen L. Strombom on April 15, 2008, recommending that the Plaintiff's Complaint be dismissed without prejudice. Dkt. 21. The court has considered the relevant documents and the remainder of the file herein.

In the Report and Recommendation, the Magistrate Judge recommended dismissal of Plaintiff's Complaint because he failed to comply with the court's order directing the Plaintiff to file an amended complaint and he failed to seek an extension of time. Dkt. 21.

On April 23, 2008, Plaintiff appealed another issue to the Ninth Circuit, U.S. Court of Appeals. Dkt. 24. On September 24, 2008, Plaintiff's appeal was dismissed. Dkt. 33. After the appeal was dismissed, the court renoted the pending April 15, 2008 Report and Recommendation to November 21, 2008, in interest of fairness to the Plaintiff in order to afford him an opportunity to file his objections to the Report and Recommendation. Dkt. 34.

Instead of filing objections to the Report and Recommendation, on November 18, 2008, the

1 Plaintiff filed a document which apparently was intended to be a request for an extension of time to  
2 file an amended complaint and to request the court to direct the Special Commitment Center to  
3 provide copies of documents in excess of the 90 copies per month limit. Dkt. 35.

4 The requirements for filing a complaint are explained by Fed. R. Civ. P. 8(a), which states:

5 (a) Claim for Relief. A pleading that states a claim for relief must contain:  
6 (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court  
already has jurisdiction and the claim needs no new jurisdictional support;  
7 (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and  
8 (3) a demand for the relief sought, which may include relief in the alternative or different  
types of relief.

9 In the interest of fairness to the Plaintiff, he should be allowed one more chance to file an  
10 amended complaint in accordance with Fed. R. Civ. P. 8(a). The requested copies of documents are  
11 not required for filing of an amended complaint, and Plaintiff has not shown good cause for ordering  
12 the Special Commitment Center to provide copies.

13 Therefore, it is hereby ordered as follows:

14 The Plaintiff's Motion for Extension of Time (Dkt. 35) is **GRANTED**, and Plaintiff may file  
15 an amended complaint which is in conformance with Fed. R. Civ. P. 8(a) on or before **December 29,**  
16 **2008**, or otherwise may respond to the Report and Recommendation. The Plaintiff is advised that if  
17 a proper complaint is not filed on or before that date the court may dismiss without prejudice the  
18 Plaintiff's Complaint for the reasons stated in the Report and Recommendation. Dkt. 21. Plaintiff's  
19 motion requesting that the court order the Special Commitment Center to provide copies (Dkt. 35) is  
20 denied. The Report and Recommendation (Dkt. 21) is renoted for December 29, 2008.

21 DATED this 26<sup>th</sup> day of November, 2008.

22 /s/ Robert J. Bryan  
23 ROBERT J. BRYAN  
24 United States District Judge  
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